

78TH CONGRESS }
1st Session }

SENATE

Calendar No. 486

{ REPORT
No. 479

MORRIS LEFF

OCTOBER 25, 1943.—Ordered to be printed

Mr. ELLENDER, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 244]

The Committee on Claims, to whom was referred the bill (H. R. 244) for the relief of Morris Leff, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 687, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report.

[H. Rept. No. 687, 78th Cong., 1st sess.]

The purpose of the proposed legislation is to pay to Morris Leff, of Brooklyn, N. Y., the sum of \$4,000, in full settlement of all claims against the United States for personal injuries sustained in an accident involving an Army airplane near Farmingdale, Long Island, on December 7, 1941.

STATEMENT OF FACTS

On December 7, 1941, at about 10:40 a. m., an aviation cadet, piloting an Army airplane, took off from Farmingdale Airport, Long Island, N. Y., on a properly authorized training flight. About an hour later, while the plane was circling the airport for a landing, the engine suddenly stopped, and the pilot was unsuccessful in his efforts to restart it. He thereupon selected what appeared to him to be the

best available field for an emergency landing, the property of the Montefiore Cemetery Corporation, near Pine Lawn, Suffolk County, Long Island. As the plane reached the ground it struck two parked automobiles and several persons standing nearby, one of whom was Morris Leff, of 625 Caton Avenue, Brooklyn, N. Y.

The pilot stated that when nearing the field he did not see any cars or other obstacles except the trees over which he approached, and that the cars must have been in his "blind spot."

As a result of the accident Mr. Leff suffered compound fractures of the right tibia and fibula, a laceration of the scalp, and severe shock, as shown by the medical evidence appended hereto.

Mr. Leff is the proprietor of a fruit and vegetable business, and, having been unable to work since the accident, has been compelled to hire a man at \$45 a week. At the time of the accident he was 33 years of age, and the following persons are wholly or partially dependent upon him for support: Ruth Leff, wife, age 33 years, totally dependent; Lillian Leff, daughter, age 6½ years, totally dependent; Frieda Kramer, mother-in-law, age 63, totally dependent; Isadore Leff, brother, age 30 years, partially dependent because of ill health; and Ella Leff, mother, age 60 years, partially dependent.

The War Department admits the Government's responsibility, saying in its report, in pertinent part:

"Since it appears that the injuries suffered by Mr. Leff resulted through no fault or negligence on his part but rather through an instrumentality of the Government for which the Government should assume responsibility, the War Department, while not prepared to pass upon the amount that should be awarded him for such injuries, will interpose no objection to the enactment of legislation compensating him in such amount as the Congress in its discretion may deem proper. * * * However, the proposed amount of \$10,000 appears to be grossly excessive."

Your committee are now advised that Mr. Leff has a decided limp of the right leg which definitely handicaps him in doing his work. His doctor has advised that he undergo another operation on the leg soon. He must still retain help to do the heavy work in the store and go to market at night for his buying.

After carefully weighing the circumstances, your committee recommend an award of \$4,000 in this case. Mr. Leff's hospital, medical, and other expenses incident to the accident have consumed a large part of this amount, and it is apparent that he will have additional expenses, so that he will be left little, if any, for actual pain and suffering.

Your committee, therefore, recommend favorable consideration of the proposed legislation.

Appended hereto is the report of the War Department, together with other pertinent evidence, all of which is made a part of this report.

WAR DEPARTMENT,
Washington, D. C., January 11, 1943.

Hon. DAN R. McGEHEE,
*Chairman, Committee on Claims,
House of Representatives, Washington, D. C.*

DEAR MR. McGEHEE: The War Department will interpose no objection to the enactment of H. R. 7466, Seventy-seventh Congress, second session, which would compensate Morris Leff, of Brooklyn, N. Y., for damages and injuries sustained by him in an accident involving an Army airplane near Farmingdale, Long Island, on December 7, 1941.

On December 7, 1941, at about 10:40 a. m. an aviation cadet, piloting an Army airplane, took off from Farmingdale Airport, Long Island, N. Y., on a properly authorized training flight. About an hour later, while the plane was circling the airport for a landing, the engine suddenly stopped, and the pilot was unsuccessful in his efforts to restart it. He thereupon selected what appeared to him to be the best available field for an emergency landing, the property of the Montefiore Cemetery Corporation, near Pine Lawn, Suffolk County, Long Island. As the plane reached the ground it struck two parked automobiles, and several persons standing nearby, one of whom was Morris Leff, of 625 Caton Avenue, Brooklyn, N. Y.

The pilot stated that when nearing the field he did not see any cars or other obstacles except the trees over which he approached, and that the cars must have been in his "blind spot."

It appears that as a result of the accident Mr. Leff suffered compound fractures of the right tibia and fibula, a laceration of the scalp, and severe shock. Copies of statements of his physicians concerning the nature and extent of his injuries and his present physical condition are enclosed for the information of the committee, together with copies of medical and hospital bills incurred.

No claim has been filed with the War Department by Mr. Leff growing out of this accident.

According to information of record in the War Department, Mr. Leff is the proprietor of a fruit and vegetable business, and, having been unable to work since the accident, has been compelled to hire a man at \$45 a week. The Department is further informed that at the time of the accident Mr. Leff was 33 years of age, and that the following persons are wholly or partially dependent upon him for support:

Ruth Leff, wife, age 33 years, totally dependent. Lillian Leff, daughter, age 6½ years, totally dependent. Frieda Kramer, mother-in-law, age 63 years, totally dependent. Isadore Leff, brother, age 30 years, partially dependent; in ill health. Ella Leff, mother, age 60 years, partially dependent.

Since it appears that the injuries suffered by Mr. Leff resulted through no fault or negligence on his part but rather through an instrumentality of the Government for which the Government should assume responsibility, the War Department, while not prepared to pass upon the amount that should be awarded him for such injuries, will interpose no objection to the enactment of legislation compensating him in such amount as the Congress in its discretion may deem proper.

Under date of June 19, 1942, the Department made a report to the committee on H. R. 6987, for the relief of Mollie Wiener Goldfein, whose son, Hyman D. Wiener, was killed in the same accident.

The Bureau of the Budget advises that there is no objection to the submission of this report. However, the proposed amount of \$10,000 appears to be grossly excessive.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

JULY 27, 1942.

Itemized claims of Morris Leff for losses and injuries due to accident which occurred when an Army airplane crashed near Farmingdale, Long Island, on Dec. 7, 1941

Dec. 7, 1941: Ambulance from scene of accident to Meadowbrook Hospital, Hempstead, Long Island.....	\$10. 00
Dec. 7, 1941: Taxi, night of accident, for family from Brooklyn to Meadowbrook Hospital, and return trip.....	10. 00
Dec. 23, 1941: Going home from hospital.....	5. 00
Dec. 7 to Dec. 23, 1941: Hospital bill (not including doctor's expense for operation).....	110. 75
Feb. 7 to July 23, 1942. Dr. Zucker, 302 Avenue N, Brooklyn. Visits every other day to change dressings on wound and try to clear up infection. Also, electric treatments and diathermy since June 3 on knee; since July 3, on knee and ankle.....	275. 00
From July 23, 1942, for indefinite period, probably 6 months. Continued dressings (wound is still draining badly) diathermy, massages, 26 weeks, at \$10 per week.....	260. 00
Feb. 7 to July 23, 1942. Treatments by Dr. Telson, 950 Ocean Ave., Brooklyn, N. Y., as per attached statement.....	100. 00
July 3, 1942: Indefinite further treatment by Dr. Telson.....	150. 00
Feb. 7 to Apr. 10, 1942: Park West Pharmacy, 212 Prospect Park West, Brooklyn, N. Y., medication, bandages, etc., as per enclosed statement.....	23. 68
Apr. 22 to July 9, 1942: Blyn Pharmacy, 701 Church Ave., Brooklyn, N. Y., as per enclosed statement.....	10. 57
(Since June 9, Dr. Zucker has been supplying me with most of the medication, bandages, gauze pads, etc.)	

Itemized claims of Morris Leff for losses and injuries due to accident which occurred when an Army airplane crashed near Farmingdale, Long Island, on Dec. 7, 1941—
Continued

Dec. 7, 1941: Suit of clothing ruined in accident.....	\$40. 00
Dec. 7, 1941: Front of overcoat badly soiled and spoiled by chemical to remove stains.....	40. 00
June 5, 1942: Raised heel and sole of left shoe 1 inch to match walking cast on right foot.....	1. 50
Feb. —, 1942: Rubber padding on crutches under arms bought in special surgical store.....	1. 00
Dec. 7 to 23, 1941: Visits by family to Meadowbrook Hospital, Brooklyn to Hempstead, Long Island.....	18. 00
Jan. 1, to June 1, 1942: Special help in house to attend to patient, to help him get around, to attend to special diet to aid leg in healing, also special diet because urinalysis showed calcium disturbance in system, due to injury. Also to accompany him to street, to wrap leg in blanket, to see that injury was properly protected from weather, to arrange bed as comfortably as possible, etc.....	400. 00
Dec. 7, 1942, to July 25, 1943: Loss of income due to total disability. He has had to employ help sufficient to do the work that he used to do, buying and in the store. As you can easily understand, however, he, as owner, used to come into the store earlier and stay later than hired help can do. There are also many fine points that no hired help can or will attend to and these are the savings that make the difference between just covering expenses and improving a business, especially a business like fruits and vegetables, where the merchandise is perishable; 33 weeks, at \$50 per week.....	1, 650. 00
July 25, 1942: Indefinite. Still totally disabled so far as his business (retail fruit and vegetable) is concerned and incapable of getting other work. Probable loss of income for next 6 months; 26 weeks, at \$50 per week.....	1, 300. 00
Indefinite. There is no doubt in my mind that it will be at least 2 years and possibly more (if Mr. Leff ever recovers complete use of his leg) before he will be able to carry on his business as he did before. I am sure he will have to pay someone to do the heavy part of his work for him for several years to come. At least 1½ years after total disability, 78 weeks, at \$15 per week.....	1, 170. 00
July 25, 1942: Due to the fact that Mr. Leff could not give the business his personal attention, the sales dropped considerably with a consequent loss in profit and goodwill value to the extent of an estimated loss of.....	1, 500. 00
Total.....	7, 075. 50

Respectfully submitted.

MORRIS LEFF.

Subscribed to before me this 27th day July 1942.

[SEAL]

SOLOMON A. BLYN,
Notary Public.

MEADOWBROOK HOSPITAL,
Hempstead, N. Y., April 1, 1942.

Mr. MILTON SCHWARTZ,
New York, N. Y.

DEAR SIR: In accordance with your request and authorization from Morris Leff, of 625 Caton Avenue, Brooklyn, N. Y., I submit the following abstract of his case history No. 36856:

Admitted: December 7, 1941.

Discharged: December 23, 1941.

Diagnoses: Compound fracture of the right tibia; fracture of right fibula, and laceration of scalp.

Operation: Open reduction; fixation with Lane plate and application of cast, December 7; removal of sutures and change of cast, December 22.

December 7, 1941: X-ray examination, right leg, portable. There is an oblique fracture of the middle third of the shaft of the tibia with small overriding of fragments, the distal being displaced laterally and its long axis forming an angle of about 20° with that of the proximal. There is about one-half contact of fractured surfaces and from the lateral aspect, the distal fragment is displaced anteriorly. There is a double fracture of the shaft of the fibula, both oblique in direction and one fracture line is about 6 cm. below the head of the fibula and a second line is seen about 19 cm. below. There is a loose fragment between these two fracture areas, overriding both upper and lower main fragments with a side to side contact. The general axial alinement of the fragments of the fibula is good from both aspects but there is a tendency toward a medial angulation.

December 8, 1941: Proximal two-thirds of the right leg and knee in plaster. A bone plate has been attached to the fragments of the tibia. There are two screws above the fracture region. The lower is about 0.5 cm. above the fracture line, the plate has been applied to the anterior medial side of the fragments. The two lower screws are in a position, somewhat oblique when compared with the long axis of the metal plate. The distal end of one of the screws projects laterally toward the fibula beyond the cortical border of the tibia. The alinement and contact of fragments is excellent. In the fibula there is good alinement and fairly close contact of the fragments in both fracture areas.

Condition upon discharge: Improved.

Very truly yours,

A. J. McRAE, *Superintendent.*

BROOKLYN, N. Y., July 23, 1942.

To Whom It May Concern:

Mr. Morris Leff has been under my care for the following injuries: (1) shock, (2) concussion of brain, (3) severe laceration of scalp, (4) sprain of right wrist, (5) compound multiple fracture of tibia and fibula of the right leg.

He has been completely disabled, and will continue so for an indefinite period of time (at least 6 months).

His medical bill to date has been \$275.

B. ZUKER, M. D.

BROOKLYN, N. Y., July 24, 1942.

To Whom It May Concern:

Morris Leff was first seen by me February 7, 1942, at which time he gave a history of having been injured by an airplane on December 7, 1941.

He came to the office on crutches, being aided by his escort. A plaster of paris casing was in place from the toes to the groin.

X-ray and clinical examination disclosed a transverse fracture with comminution of the middle of the shaft of the tibia and fibula. A Lane plate was in place, having been used to aline the fragments. At the time of the first examination a window was cut in the casing and some discharge was found to be present from the wound, indicating a low-grade infection which was present at the fracture site. The dressings were changed by his own physician and when the osteomyelitis had quieted sufficiently to allow a permanent dressing to be applied a new plaster of paris casing was applied on June 3, reaching from the toes to below the knee with a walking device fixed to the bottom of the cast. On July 3 the plaster of paris casing was removed and the wound found to be still draining, indicating the continuance of the osteomyelitis process. A special bandage was applied and the man referred back to his own physician for treatment.

My medical bills to date are \$100.

I am unable to state at the present time what the eventual outcome of the case will be because of the infection which is still present. Under the best of conditions if the infection clears up, I will remove the plate 2 months from now. This will entail an additional charge by me of an additional \$150. He will be completely disabled for a period of at least 6 months longer.

DAVID R. TELSON, M. D.

EXHIBIT A

HEMPSTEAD, N. Y., April 24, 1942.

Morris Leff, case No. 36856, 625 Caton Avenue, Brooklyn, to Meadowbrook Hospital, Dr.

To professional services:

Board from Dec. 7 to Dec. 23, 1941, rate, \$4.....	\$64. 00
Operating room Dec. 7, Dec. 22.....	20. 00
X-ray, Dec. 7, Dec. 8.....	15. 00
Laboratory, Dec. 7.....	5. 00
Special drugs, Dec. 7, Dec. 8.....	3. 15
Surgical dressings, Dec. 7.....	3. 00
Crutches, Dec. 22.....	. 60

Total charges..... 110. 75

Hospital charges are payable in advance. Return this memo bill with remittance to be exchanged for an official receipt.

Bill sent to: Above.

A certified true copy:

W. Z. LACKLAND,
First Lieutenant, Air Corps, Assistant Adjutant,
Eightieth Fighter Group.

EXHIBIT B

BROOKLYN, N. Y., November 7, 1942.

To Dr. B. Zucker, Dr., for professional services: For services rendered Morris Leff to date.

Received payment, \$450.

(Signed) B. ZUCKER, M. D.

A certified true copy:

W. Z. LACKLAND,
First Lieutenant, Air Corps,
Eightieth Fighter Group.

EXHIBIT C

PARK WEST PHARMACAL CO.,
Brooklyn, N. Y.

Bill for Mr. Leff, 625 Caton Avenue.

Feb. 7, 1942:

6 bandages, 3 by 10 inches.....	\$1. 38
4 ounces sulfanilamide products.....	. 95
2 dozen Steripads, 3 by 3 inches.....	. 40
1 bottle peroxide.....	. 25
1 bottle alcohol.....	. 39

Feb. 13:

Peroxide.....	. 25
Alcohol.....	. 39
Gauze.....	. 59
1 pound cotton.....	. 98

Feb. 19:

6 bandages.....	1. 38
Peroxide.....	. 25
2 dozen Steripads.....	. 40
1 pound cotton.....	. 98

Mar. 4:

6 bandages.....	1. 38
2 dozen Steripads.....	. 40
5 yards gauze.....	. 59

Exhibit C—Continued

Mar. 9:		
	Peroxide.....	\$0. 25
	6 bandages.....	1. 38
	Burows solution.....	. 50
	1 pound cotton.....	. 98
Mar. 20:		
	Peroxide.....	. 25
	2 dozen Steripads.....	. 40
	6 bandages.....	1. 38
Mar. 27:		
	6 bandages.....	1. 38
	1 pound cotton.....	. 98
	Peroxide.....	. 25
Apr. 2:		
	6 bandages.....	1. 38
	5 yards gauze.....	. 59
	Alcohol.....	. 39
Apr. 10:		
	6 bandages.....	1. 38
	1 pound cotton.....	. 98
	Peroxide.....	. 25
	Total.....	23. 68

Paid: Park West Pharmacy, 212 Prospect Park West, Brooklyn, N. Y., L. Rich—
L. Applebaum.

A certified true copy:

W. Z. LACKLAND,
First Lieutenant, Air Corps, Assistant Adjutant,
Eightieth Fighter Group.

EXHIBIT D

Mr. Leff, 625 Caton Ave., sold by Blyn Pharmacy, S. A. Blyn, Ph. G., 701 Church Avenue, Brooklyn, N. Y.

Apr. 22:		
	6 bandages, 3 inch.....	\$1. 38
	Steripads, 25.....	. 40
	Peroxide.....	. 25
	Crutch tips.....	. 50
May 10: 6 bandages, 3 inch.....		1. 38
May 16:		
	1 pound cotton.....	. 98
	Alcohol.....	. 39
May 29:		
	Steripads.....	. 40
	Tape.....	. 20
	6 bandages, 3 inch.....	1. 38
June 4: Memuen oil.....		. 89
June 9:		
	Peroxide.....	. 25
	Alcohol.....	. 39
July 9: 2 Ace bandages.....		1. 78
	Total.....	10. 57

Paid.

A certified true copy:

W. Z. LACKLAND,
First Lieutenant, Air Corps, Assistant Adjutant,
Eightieth Fighter Group.

EXHIBIT E

DAVID R. TELSON, M. D., F. A. C. S.,
Brooklyn, N. Y., July 24, 1942.

To Whom It May Concern:

Morris Leff was first seen by me February 7, 1942, at which time he gave a history of having been injured by an airplane on December 7, 1941.

He came to the office on crutches being aided by his escort. A plaster of paris casing was in place from the toes to the groin.

X-ray and clinical examination disclosed a transverse fracture with comminution of the middle of the shaft of the tibia and fibula. A Lane plate was in place having been used to align the fragments. At the time of the first examination a window was cut in the casing and some discharge was found to be present from the wound indicating a low-grade infection which was present at the fractured site. The dressings were changed by his own physician and when the osteomyelitis had quieted sufficiently to allow a permanent dressing to be applied, a new plaster of paris casing was applied on June 3, reaching from the toes to below the knee with a walking device fixed to the bottom of the cast. On July 3, the plaster of paris casing was removed and the wound found to be still draining indicating the continuance of the osteomyelitic process. A special bandage was applied and the man referred back to his own physician for treatment.

My medical bills to date are \$100.

I am unable to state at the present time what the eventual outcome of the case will be because of the infection which is still present. Under the best of conditions if the infection clears up, I will remove the plate 2 months from now. This will entail an additional charge by me of an additional \$150. He will be completely disabled for a period of at least 6 months longer.

DAVID R. TELSON, M. D.

A true copy:

W. Z. LACKLAND,
First Lieutenant, Air Corps,
Assistant Adjutant.

EXHIBIT F

B. ZUCKER, M. D.,
Brooklyn, N. Y., November 7, 1942.

To Whom It May Concern:

Morris Leff is still under treatment for injuries sustained December 7, 1941. He will have to undergo an operation on his leg to remove steel plates holding the fractured bones in position, in the very near future.

Yours truly,

(Signed) B. ZUCKER, M. D.

A certified true copy:

W. Z. LACKLAND,
1st Lieutenant, Air Corps, Assistant Adjutant,
Eightieth Fighter Group.

HEMPSTEAD, N. Y., April 24, 1942.

Morris Leff, Case No. 36856, 625 Caton Avenue, Brooklyn, to Meadowbrook Hospital, Dr.

To professional services:

Board from Dec. 7 to Dec. 23, 1941, rate: \$4	\$64.00
Operating room Dec. 7, Dec. 22	20.00
X-ray Dec. 7, Dec. 8	15.00
Laboratory Dec. 7	5.00
Special drugs Dec. 7, Dec. 8	3.15
Surgical dressings Dec. 7	3.00
Crutches Dec. 22	.60

Total charges 110.75

Hospital charges are payable in advance. Return this memo bill with remittance to be exchanged for an official receipt.

Bill sent to: Above.

PARK WEST PHARMACAL CO.,
Brooklyn, N. Y.

Bill for Mr. Leff, 625 Caton Avenue.

Feb. 7, 1942:	
6 bandages, 3 by 10 inches	\$1.38
4 ounces sulfanilamide powder	.95
2 dozen steripads, 3 by 3 inches	.40
1 bottle peroxide	.25
1 bottle alcohol	.39
Feb. 13:	
Peroxide	.25
Alcohol	.39
Gauze	.59
1 pound cotton	.98
Feb. 19:	
6 bandages	1.38
Peroxide	.25
2 dozen steripads	.40
1 pound cotton	.98
Mar. 4:	
6 bandages	1.38
2 dozen steripads	.40
5 yards gauze	.59
Mar. 9:	
Peroxide	.25
6 bandages	1.38
Burow's solution	.50
1 pound cotton	.98
Mar. 20:	
Peroxide	.25
2 dozen steripads	.40
6 bandages	1.38
Mar. 27:	
6 bandages	1.38
1 pound cotton	.98
Peroxide	.25
Apr. 2:	
6 bandages	1.38
5 yards gauze	.59
Alcohol	.39
Apr. 10:	
6 bandages	1.38
1 pound cotton	.98
Peroxide	.25
Total	23.68

Paid: Park West Pharmacy, 212 Prospect Park West, Brooklyn, N. Y.

LOUIS APPLEBAUM.

Mr. Leff, 625 Caton Avenue, sold by Blyn Pharmacy, S. A. Blyn, Ph. G.,
701 Church Avenue, Brooklyn, N. Y.

Apr. 22:	
6 bandages, 3 inch	\$1.38
Steripads, 25	.40
Peroxide	.25
Crutch tips	.50
May 10: 6 bandages, 3 inch	1.38

May 16:		
1 pound cotton.....		\$0. 98
Alcohol.....		. 39
May 29:		
Steripads.....		. 40
Tape.....		. 20
6 bandages, 3 inch.....		1. 38
June 4: Mennen oil.....		. 89
June 9:		
Peroxide.....		. 25
Alcohol.....		. 39
July 9: 2 Ace bandages.....		1. 78
Total.....		10. 57
Paid.		

